

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER BARAJAS,

Petitioner,

No. CIV S-01-1572 DFL DAD P

vs.

MIKE KNOWLES, Warden, et al.,

Respondents.

ORDER

By order filed August 9, 2004, this action was stayed and administratively closed to permit petitioner to exhaust additional claims based on newly discovered evidence. Petitioner was required to file a state exhaustion petition within sixty days, submit periodic status reports thereafter, and file motions to lift the stay and for leave to amend within thirty days after service of a state court order exhausting the new claims. In response to the court's order to show cause filed November 28, 2006, petitioner's counsel has filed a response in which he states that it would be appropriate for the stay to be lifted at this time.

Petitioner's counsel indicates that he filed no further petitions after the Sacramento County Superior Court denied the initial exhaustion petition as untimely. Petitioner has not exhausted additional claims and does not seek leave to amend but requests an opportunity to file a traverse. No traverse was filed by petitioner's previous counsel.

1 IT IS ORDERED that:

2 1. Petitioner's December 8, 2006 response to order to show cause, construed as a  
3 motion to lift the stay imposed on August 9, 2004, and for leave to file a traverse, is granted;

4 2. The Clerk of the Court is directed to re-open this case;

5 3. Petitioner is granted thirty days to file a traverse to the answer filed by  
6 respondents on October 5, 2001; and

7 4. Upon the filing of a timely traverse, this matter will be submitted for decision  
8 on the petition and memorandum of points and authorities filed August 14, 2001, respondents'  
9 answer filed October 5, 2001, the state court record lodged by respondents on October 5, 2001,  
10 and petitioner's traverse.

11 DATED: December 13, 2006.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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